

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT BERTOLA, No. C-09-5428 TEH (PR)
Petitioner,
v. ORDER OF TRANSFER
J HARTLEY, Warden,
Respondent.

Petitioner seeks federal habeas review of the execution of a sentence imposed by the Santa Clara County Superior Court, which lies in this judicial district. See 28 U.S.C. § 84(a). Petitioner is incarcerated at Avenal State Prison in the County of Kings, which lies in the Eastern District of California. See *id.* § 84(b).

Venue in a habeas action is proper in either the district of conviction or the district of confinement. 28 U.S.C. § 2241(d); Dannenberg v. Ingle, 831 F. Supp. 767, 768 (N.D. Cal. 1993). The district of confinement, however, is the preferable forum to review the execution of a sentence. See Habeas L. R. 2254-3(b)(2); Dunne v. Henman, 875 F.2d 244, 249 (9th Cir. 1989); cf. Habeas L. R. 2254-


1 3(b)(1); Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968)
2 (district of conviction preferable forum to review conviction).

3 Because the County of Kings lies in the Eastern District
4 of California, pursuant to 28 U.S.C. § 1406(a) and Habeas Local Rule
5 2254-3(b)(2) and in the interest of justice the court orders this
6 petition TRANSFERRED to the United States District Court for the
7 Eastern District of California.

8 The Clerk shall terminate all pending motions as moot,
9 close the file and transfer this matter to the United States
10 District Court for the Eastern District of California.

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12 IT IS SO ORDERED.

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14 DATED 12/02/09



THELTON E. HENDERSON
United States District Judge